

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

PAUL SMEDLEY, et al.,

Plaintiff,

vs.

LOWE'S COMPANIES, INC., et al.,

Defendants.

:

:

:

:

Case No. 3:03cv326

JUDGE WALTER HERBERT RICE

---

DECISION AND ENTRY OVERRULING MOTION FOR SUMMARY  
JUDGMENT OF DEFENDANT LOWE'S COMPANIES, INC. (DOC. #17),  
WITHOUT PREJUDICE TO RENEWAL AT CONCLUSION OF  
DISCOVERY; PLAINTIFFS' MOTION FOR EXTENSION OF TIME,  
PURSUANT TO FED. R. CIV. P. 56(f) (DOC. #20), OVERRULED AS  
MOOT; CONFERENCE CALL SET TO DISCUSS DISCOVERY  
SCHEDULE AND TO RESET TRIAL DATE AND OTHER DATES

---

Unfortunately, the captioned matter appears to have fallen between the cracks. What is crystal clear is that discovery issues have prevented the briefing of the Motion for Summary Judgment filed by the Defendant Lowe's Companies, Inc. (Doc. #17), and this Court's decision thereon.

Accordingly, said Motion for Summary Judgment, filed prior to the completion of the desired discovery, is overruled, without prejudice to renewal, at the conclusion of a court-ordered discovery cut-off date, when said motion will reflect all of the discovery then extant in the captioned matter. The Plaintiffs'

Motion for an Extension of Time to file a response to the then pending Motion for Summary Judgment, pursuant to Fed. R. Civ. P. 56(f) (Doc. #20), is overruled as moot.

Counsel of record will take note that a telephone conference call will be held, between Court and counsel, in order to discuss the discovery needs of the parties, a cut-off date for discovery, a motion filing date and, upon an as-needed basis, a trial date and other dates leading to the resolution of this litigation, at 8:15 a.m. on Wednesday, October 5, 2005.

/s/ Walter Herbert Rice

September 27, 2005

---

WALTER HERBERT RICE  
UNITED STATES DISTRICT JUDGE

Copies to:

All Counsel of Record

WHR/slc